IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 157 OF 1999

The Commissioner of Income-tax ... Applicant.
V/s.
Shreem Capaciters Pvt.Ltd. ... Respondent.

A.S.Rao for the Applicant.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 25th April 2005.

P.C. :

. Heard learned counsel for the applicant.

The tribunal has referred following question for the

opinion of this Court:

> "Whether, on the facts and in the circumstances of the case, The Tribunal was right in setting aside the order of the Assessing Officer and directing the Assessing Officer to verify whether the purchase of raw material was debited to the Trading Account net of "MODVAT CREDIT" or not if the purchased are debited after deducting the Excise duty then not to make any addition whereas the Hon. ITAT, Pune had referred the question of law on the same issue in the assessee's own case under R.A. 161/PN/1994 to the Hon. High Court Mumbai?"

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. v. Indo Nippon Chem.Co.Ltd.,** (2003) 261 ITR 275 (Bom) in favour of assessee and against the revenue. In this view of the matter, the question referred is answered in affirmative for the reasons stated in the above referred judgment.

. Reference stands disposed of accordingly with no order as to costs.